

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3479
OFFERED BY MR. LIPINSKI

Strike all after the enacting clause and insert the following:

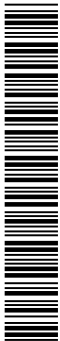
1 SECTION. 1. SHORT TITLE.

2 This Act may be cited as the “National Aviation Ca-
3 pacity Expansion Act of 2002”.

4 SEC. 2. FINDINGS.

5 Congress finds the following:

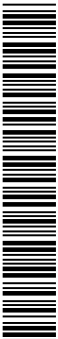
6 (1) O’Hare International Airport consistently
7 ranks as the Nation’s first or second busiest airport
8 with nearly 34,000,000 annual passengers
9 enplanements, almost all of whom travel in inter-
10 state or foreign commerce. The Federal Aviation Ad-
11 ministration’s most recent data, compiled in the Air-
12 port Capacity Benchmark Report 2001, projects de-
13 mand at O’Hare to grow by 18 percent over the next
14 decade. O’Hare handles 72,100,000 passengers an-
15 nually, compared with 64,600,000 at London
16 Heathrow International Airport, Europe’s busiest
17 airport, and 36,700,000 at Kimpo International Air-
18 port, Korea’s busiest airport, 7,400,000 at Narita
19 International Airport, Japan’s busiest airport,



1 23,700,000 at Kingsford-Smith International Air-
2 port, Australia's busiest airport, and 6,200,000 at
3 Ezeiza International Airport, Argentina's busiest
4 airport, as well as South America's busiest airport.

5 (2) The Airport Capacity Benchmark Report
6 2001 ranks O'Hare as the third most delayed air-
7 port in the United States. Overall, slightly more
8 than 6 percent of all flights at O'Hare are delayed
9 significantly (more than 15 minutes). On good
10 weather days, scheduled traffic is at or above capac-
11 ity for 3½ hours of the day with about 2 percent
12 of flights at O'Hare delayed significantly. In adverse
13 weather, capacity is lower and scheduled traffic ex-
14 ceeds capacity for 8 hours of the day, with about 12
15 percent of the flights delayed.

16 (3) The city of Chicago, Illinois, which owns
17 and operates O'Hare, has been unable to pursue
18 projects to increase the operating capability of
19 O'Hare runways and thereby reduce delays because
20 the city of Chicago and the State of Illinois have
21 been unable for more than 20 years to agree on a
22 plan for runway reconfiguration and development.
23 State law states that such projects at O'Hare re-
24 quire State approval.



1 (4) On December 5, 2001, the Governor of Illi-
2 nois and the Mayor of Chicago reached an agree-
3 ment to allow the city to go forward with a proposed
4 capacity enhancement project for O'Hare which in-
5 volves redesign of the airport's runway configura-
6 tion.

7 (5) In furtherance of such agreement, the city,
8 with approval of the State, applied for and received
9 a master-planning grant from the Federal Aviation
10 Administration for the capacity enhancement
11 project.

12 (6) The agreement between the city and the
13 State is not binding on future Governors of Illinois.

14 (7) Future Governors of Illinois could stop the
15 O'Hare capacity enhancement project by refusing to
16 issue a certificate required for such project under
17 the Illinois Aeronautics Act, or by refusing to submit
18 airport improvement grant requests for the project,
19 or by improperly administering the State implemen-
20 tation plan process under the Clean Air Act (42
21 U.S.C. 7401 et seq.) to prevent construction and op-
22 eration of the project.

23 (8) The city of Chicago is unwilling to continue
24 to go forward with the project without assurance
25 that future Governors of Illinois will not be able to



1 stop the project, thereby endangering the value of
2 the investment of city and Federal resources in the
3 project.

4 (9) Because of the importance of O'Hare to the
5 national air transportation system and the growing
6 congestion at the airport and because of the expendi-
7 ture of Federal funds for a master-planning grant
8 for expansion of capacity at O'Hare, it is important
9 to the national air transportation system, interstate
10 commerce, and the efficient expenditure of Federal
11 funds, that the city of Chicago's proposals to the
12 Federal Aviation Administration have an oppor-
13 tunity to be considered for Federal approval and
14 possible funding, that the city's requests for changes
15 to the State implementation plan to allow such
16 projects not be denied arbitrarily, and that, if the
17 Federal Aviation Administration approves the
18 project and funding for a portion of its cost, the city
19 can implement and use the project.

20 (10) Any application submitted by the city of
21 Chicago for expansion of O'Hare should be evalu-
22 ated by the Federal Aviation Administration and
23 other Federal agencies under all applicable Federal
24 laws and regulations and should be approved only if



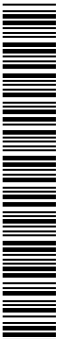
1 the application meets all requirements imposed by
2 such laws and regulations.

3 (11) As part of the agreement between the city
4 and the State allowing the city to submit an applica-
5 tion for improvement of O'Hare, there has been an
6 agreement for the continued operation of Merrill C.
7 Meigs Field by the city, and it has also been agreed
8 that, if the city does not follow the agreement on
9 Meigs Field, Federal airport improvement program
10 funds should be withheld from the city for O'Hare.

11 (12) To facilitate implementation of the agree-
12 ment allowing the city to submit an application for
13 O'Hare, it is desirable to require by law that Fed-
14 eral airport improvement program funds for O'Hare
15 be administered to require continued operation of
16 Merrill C. Meigs Field by the city, as proposed in
17 the agreement.

18 (13) To facilitate implementation of the agree-
19 ment allowing the city to submit an application for
20 O'Hare, it is desirable to enact into law provisions
21 of the agreement relating to noise and public road-
22 way access. These provisions are not inconsistent
23 with Federal law.

24 (14) If the Federal Aviation Administration ap-
25 proves an airport layout plan for O'Hare directly re-



1 lated to the agreement reached on December 5,
2 2001, such approvals will constitute an action of the
3 United States under Federal law and will be an im-
4 portant first step in the process by which the Gov-
5 ernment could decide that these plans should receive
6 Federal assistance under chapter 471 of title 49,
7 United States Code, relating to airport development.

8 (15) The agreement between the State of Illi-
9 nois and the city of Chicago includes agreement that
10 the construction of an airport in Peotone, Illinois,
11 would be proposed by the State to the Federal Avia-
12 tion Administration. Like the O'Hare expansion pro-
13 posal, the Peotone proposal should receive full con-
14 sideration by the Federal Aviation Administration
15 under standard procedures for approving and fund-
16 ing an airport improvement project, including all ap-
17 plicable safety, utility and efficiency, and environ-
18 mental review.

19 (16) Gary/Chicago Airport in Gary, Indiana,
20 and the Greater Rockford Airport, Illinois, may al-
21 leviate congestion and provide additional capacity in
22 the greater Chicago metropolitan region. Like the
23 O'Hare airport expansion proposal, expansion efforts
24 by Gary/Chicago and Greater Rockford airports
25 should receive full consideration by the Federal



1 Aviation Administration under standard procedures
2 for approving and funding an airport capacity im-
3 provement project, including all applicable safety,
4 utility and efficiency, and environmental reviews.

5 **SEC. 3. STATE, CITY, AND FAA AUTHORITY.**

6 (a) PROHIBITION.—In furtherance of the purpose of
7 this Act to achieve significant air transportation benefits
8 for interstate and foreign commerce, if the Federal Avia-
9 tion Administration makes, or at any time after December
10 5, 2001 has made, a grant to the city of Chicago, Illinois,
11 with the approval of the State of Illinois for planning or
12 construction of runway improvements at O'Hare Inter-
13 national Airport, the State of Illinois, and any instrumen-
14 tality or political subdivision of the State, are prohibited
15 from exercising authority under sections 38.01, 47, and
16 48 of the Illinois Aeronautics Act (620 ILCS 5/) to pre-
17 vent, or have the effect of preventing—

18 (1) further consideration by the Federal Avia-
19 tion Administration of an O'Hare airport layout
20 plan directly related to the agreement reached by the
21 State and the city on December 5, 2001, with re-
22 spect to O'Hare;

23 (2) construction of projects approved by the Ad-
24 ministration in such O'Hare airport layout plan; or



1 (3) application by the city of Chicago for Fed-
2 eral airport improvement program funding for
3 projects approved by the Administration and shown
4 on such O'Hare airport layout plan.

5 (b) APPLICATIONS FOR FEDERAL FUNDING.—Not-
6 withstanding any other provision of law, the city of Chi-
7 cago is authorized to submit directly to the Federal Avia-
8 tion Administration without the approval of the State of
9 Illinois, applications for Federal airport improvement pro-
10 gram funding for planning and construction of a project
11 shown on an O'Hare airport layout plan directly related
12 to the agreement reached on December 5, 2001, and to
13 accept, receive, and disburse such funds without the ap-
14 proval of the State of Illinois.

15 (c) LIMITATION.—If the Federal Aviation Adminis-
16 tration determines that an O'Hare airport layout plan di-
17 rectly related to the agreement reached on December 5,
18 2001, will not be approved by the Administration, sub-
19 sections (a) and (b) of this section shall expire and be of
20 no further effect on the date of such determination.

21 (d) WESTERN PUBLIC ROADWAY ACCESS.—As pro-
22 vided in the December 5, 2001, agreement referred to in
23 subsection (a), the Administrator of the Federal Aviation
24 Administration shall not consider an airport layout plan
25 submitted by the city of Chicago that includes the runway

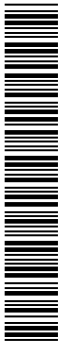


1 redesign plan, unless the airport layout plan includes pub-
2 lic roadway access through the existing western boundary
3 of O'Hare to passenger terminal and parking facilities lo-
4 cated inside the boundary of O'Hare and reasonably acces-
5 sible to such western access. Approval of western public
6 roadway access shall be subject to the condition that the
7 cost of construction be paid for from airport revenues con-
8 sistent with Administration revenue use requirements.

9 (e) NOISE MITIGATION.—As provided in the Decem-
10 ber 5, 2001, agreement referred to in subsection (a), the
11 following apply:

12 (1) Approval by the Administrator of an airport
13 layout plan that includes the runway redesign plan
14 shall require the city of Chicago to offer acoustical
15 treatment of all single-family houses and schools lo-
16 cated within the 65 DNL noise contour for each
17 construction phase of the runway redesign plan, sub-
18 ject to Administration guidelines and specifications
19 of general applicability. The Administrator may not
20 approve the runway redesign plan unless the city
21 provides the Administrator with information suffi-
22 cient to demonstrate that the acoustical treatment
23 required by this paragraph is feasible.

24 (2)(A) Approval by the Administrator of an air-
25 port layout plan that includes the runway redesign



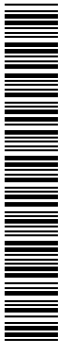
1 plan shall be subject to the condition that noise im-
2 pact of aircraft operations at O'Hare in the calendar
3 year immediately following the year in which the
4 first new runway is first used and in each calendar
5 year thereafter will be less than the noise impact in
6 calendar year 2000.

7 (B) The Administrator shall make the deter-
8 mination described in subparagraph (A)—

9 (i) using, to the extent practicable, the pro-
10 cedures specified in part 150 of title 14, Code
11 of Federal Regulations;

12 (ii) using the same method for calendar
13 year 2000 and for each forecast year; and

14 (iii) by determining noise impact solely in
15 terms of the aggregate number of square miles
16 and the aggregate number of single-family
17 houses and schools exposed to 65 or greater
18 decibels using the DNL metric, including only
19 single-family houses and schools in existence on
20 the last day of calendar year 2000. The Admin-
21 istrator shall make such determination based on
22 information provided by the city of Chicago,
23 which shall be independently verified by the Ad-
24 ministrator.



1 (C) The conditions described in this subsection
2 shall be enforceable exclusively through the submis-
3 sion and approval of a noise compatibility plan
4 under part 150 of title 14, Code of Federal Regula-
5 tions. The noise compatibility plan submitted by the
6 city of Chicago shall provide for compliance with this
7 subsection. The Administrator shall approve meas-
8 ures sufficient for compliance with this subsection in
9 accordance with procedures under such part 150.
10 The United States shall have no financial responsi-
11 bility or liability if operations at O'Hare in any year
12 do not satisfy the conditions in this subsection.

13 (f) REPORT TO CONGRESS.—If the runway redesign
14 plan described in this section has not received all Federal,
15 State, and local permits and approvals necessary to begin
16 construction by December 31, 2004, the Administrator
17 shall submit a status report to the Committee on Com-
18 merce, Science, and Transportation of the Senate and the
19 Committee on Transportation and Infrastructure of the
20 House of Representatives within 120 days of such date
21 identifying each permit and approval necessary for the
22 project and the status of each such action.

23 (g) JUDICIAL REVIEW.— An order issued by the Ad-
24 ministrator, in whole or in part, under this section shall
25 be deemed to be an order issued under part A of subtitle



1 VII of title 49, United States Code, and shall be reviewed
2 in accordance with the procedure in section 46110 of such
3 title.

4 (h) DEFINITION.—In this section, the terms “airport
5 layout plan directly related to the agreement reached on
6 December 5, 2001” and “such airport layout plan” mean
7 a plan that shows—

8 (1) 6 parallel runways at O’Hare oriented in
9 the east-west direction with the capability for 4 si-
10 multaneous independent visual aircraft arrivals in
11 both directions, and all associated taxiways, naviga-
12 tional facilities, and other related facilities; and

13 (2) closure of existing runways 14L–32R, 14R–
14 32L and 18–36 at O’Hare.

15 **SEC. 4. CLEAN AIR ACT.**

16 (a) IMPLEMENTATION PLAN.—An implementation
17 plan shall be prepared by the State of Illinois under the
18 Clean Air Act (42 U.S.C. 7401 et seq.) in accordance with
19 the State’s customary practices for accounting for and
20 regulating emissions associated with activity at commer-
21 cial service airports. The State shall not deviate from its
22 customary practices under the Clean Air Act for the pur-
23 pose of interfering with the construction of a runway pur-
24 suant to the redesign plan or the south suburban airport.
25 At the request of the Administrator of the Federal Avia-



tion Administration, the Administrator of the Environmental Protection Agency shall, in consultation with the Administrator of the Federal Aviation Administration, determine that the foregoing condition has been satisfied before approving an implementation plan. Nothing in this section shall be construed to affect the obligations of the State under section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)).

(b) LIMITATION ON APPROVAL.—The Administrator of the Federal Aviation Administration shall not approve the runway redesign plan unless the Administrator of the Federal Aviation Administration determines that the construction and operation will include, to the maximum extent feasible, the best management practices then reasonably available to and used by operators of commercial service airports to mitigate emissions regulated under the implementation plan.

SEC. 5. MERRILL C. MEIGS FIELD.

The State of Illinois and the city of Chicago, Illinois, have agreed to the following:

(1) Until January 1, 2026, the Administrator of the Federal Aviation Administration shall withhold all Federal airport grant funds respecting O'Hare International Airport, other than grants involving national security and safety, unless the Ad-



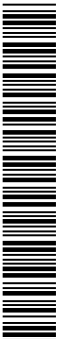
1 administrator is reasonably satisfied that the following
2 conditions have been met:

3 (A) Merrill C. Meigs Field in Chicago ei-
4 ther is being operated by the city of Chicago as
5 an airport or has been closed by the Adminis-
6 tration for reasons beyond the city's control.

7 (B) The city of Chicago is providing, at its
8 own expense, all off-airport roads and other ac-
9 cess, services, equipment, and other personal
10 property that the city provided in connection
11 with the operation of Meigs Field on and prior
12 to December 1, 2001.

13 (C) The city of Chicago is operating Meigs
14 Field, at its own expense, at all times as a pub-
15 lic airport in good condition and repair open to
16 all users capable of utilizing the airport and is
17 maintaining the airport for such public oper-
18 ations at least from 6:00 A.M. to 10:00 P.M.
19 7 days a week whenever weather conditions per-
20 mit.

21 (D) The city of Chicago is providing or
22 causing its agents or independent contractors to
23 provide all services (including police and fire
24 protection services) provided or offered at Meigs
25 Field on or immediately prior to December 1,



1 2001, including tie-down, terminal, refueling,
2 and repair services, at rates that reflect actual
3 costs of providing such goods and services.

4 (2) If Meigs Field is closed by the Administra-
5 tion for reasons beyond the city of Chicago's control,
6 the conditions described in subparagraphs (B)
7 through (D) of paragraph (1) shall not apply.

8 (3) After January 1, 2006, the Administrator
9 shall not withhold Federal airport grant funds to the
10 extent the Administrator determines that with-
11 holding of such funds would create an unreasonable
12 burden on interstate commerce.

13 (4) The Administrator shall not enforce the
14 conditions listed in paragraph (1) if the State of Illi-
15 nois enacts a law on or after January 1, 2006, au-
16 thorizing the closure of Meigs Field.

17 (5) Net operating losses resulting from oper-
18 ation of Meigs Field, to the extent consistent with
19 law, are expected to be paid by the 2 air carriers at
20 O'Hare International Airport that paid the highest
21 amount of airport fees and charges at O'Hare Inter-
22 national Airport for the preceding calendar year.
23 Notwithstanding any other provision of law, the city
24 of Chicago may use airport revenues generated at



1 O'Hare International Airport to fund the operation
2 of Meigs Field.

3 **SEC. 6. APPLICATION WITH EXISTING LAW.**

4 Nothing in this Act shall give any priority to or affect
5 availability or amounts of funds under chapter 471 of title
6 49, United States Code, to pay the costs of O'Hare Inter-
7 national Airport, improvements shown on an airport lay-
8 out plan directly related to the agreement reached by the
9 State of Illinois and the city of Chicago, Illinois, on De-
10 cember 5, 2001.

